THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. 2006-0725, Mark P. LaRosa v. Maximum Production Solutions, Inc., the court on September 10, 2007, issued the following order:

Mark P. LaRosa appeals an order following trial in which the trial court construed an assignment of rights that he executed with James Place. He argues that the court erred in: (1) finding that the letter of resignation that Place executed with the respondent, Maximum Production Solutions, Inc. (MPS) was ambiguous; (2) finding that MPS acted within a reasonable time to accept Place's offer of resignation; (3) reforming the contract between MPS and Place in the absence of a request to do so; and (4) finding that LaRosa had no role in developing the reusable collapsible core (RCC) or its components. We affirm.

The trial court found that MPS was formed in 2003 to market the RCC, an invention created by Place; at the time of its formation, Place held all of its corporate offices. The trial court further found that in May 2004, Place executed a resignation agreement with MPS. The agreement contained the following language: "James Place agrees to resign as President of [MPS] effective as the date of this agreement." In July 2005, Place signed an agreement with the appellant in which he assigned to him any rights that Place retained in the RCC. Place had previously assigned his rights in the RCC to MPS contingent upon his continued employment with or voluntary resignation from MPS. To establish that he had acquired rights to the RCC, LaRosa filed a petition for declaratory judgment arguing that Place had been involuntarily terminated from his position as CEO because his May 2004 resignation agreement with MPS did not include the term "CEO."

We first consider whether the resignation agreement was ambiguous. To form a contract, there must be a meeting of the minds. Chisholm v. Ultima Nashua Indus. Corp., 150 N.H. 141, 145 (2003). A meeting of the minds is present when the parties assent to the same terms. Id. In this case, LaRosa was a signatory to the resignation agreement and argues that it was intended to address only Place's position as president of MPS.

Whether a contract term is ambiguous is a question of law that we review de novo. Behrens v. S. P. Constr. Co., 153 N.H. 498, 503 (2006). When interpreting a written agreement, we give the language used by the parties its reasonable meaning, considering the circumstances and the context in which the agreement was negotiated and reading the document as a whole. Id.

The trial court's detailed order addressed 189 requested findings and rulings submitted by the parties. The court denied LaRosa's requested finding that the "term 'President' as it appears in Mr. Place's May 15, 2004 resignation is unambiguous." We agree with the trial court that in the context of the agreement as a whole, the term "President" is ambiguous.

The one-page resignation agreement between MPS and Place also provided: "In the event thatfor [sic] any reason the board of directors of MPS elected at said shareholders meeting or its designee fail to agree to the terms outlined in paragraph 2 of this agreement, then this agreement shall immediately become nul [sic] and void." At the time that Place executed his resignation agreement, he was the only member of the board of directors. If the resignation agreement were not intended to include Place's position as sole board member, there would be no need for this language. Moreover, the agreement provides no further description of the meeting or Place's role until such meeting.

Because the agreement was ambiguous, the trial court properly considered extrinsic evidence to interpret it. Id. at 504. The trial court found that when Place executed his letter of resignation from MPS in May 2004, "he was voluntarily resigning from all involvement in [MPS] which would include his roles as both President and CEO." This finding is amply supported by the record. See id. (when trial court properly looks to extrinsic evidence to determine intent of parties, interpretation is left to trier of fact unless reasonable people could reach only one conclusion).

LaRosa also contends that the trial court erred in finding that MPS acted within a reasonable time to accept Place's resignation. The trial court found that the agreement did not require a specific act of ratification. As the trial court found, a majority of the members of the subsequently expanded board and Place executed the agreement. Moreover, no evidence was presented that the board ever expressed disapproval of the terms. Accordingly, we find no error in the trial court's ruling.

Given our conclusion, we need not address the appellant's remaining issues.

Affirmed.

DALIANIS, DUGGAN and HICKS, JJ., concurred.

Eileen Fox,
Clerk